IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.11.2006

Coram:

The Honourable Mr.Justice J.A.K.SAMPATH KUMAR

A.S.No.957 of 1993 &
A.S.No.957 of 1996

P.K.Saraswathi Ammal .. Appellant in
A.S.No.957 of 1993

1.R.Veluswami
2.R.Saraswathi
3.V.Saraswathi
4.Bhakiyalakshmi
5.Santhanalakshmi
6.Rajalakshmi
7.V.Rajkumar
8.V.Ravikumar .. Appellants in
9.V.Rameshkumar A.S.No.957 of 1996

vs.

The Special Tahsildar
(Land Acquisition)
Coimbatore Water Supply Scheme
Coimbatore, .. Respondent in both
Coimbatore District the appeals.

These Appeals are filed Under Section 54 of the Land Acquisition Act against the Judgment and decree dated 25.1.1990 made in R.C.No.26 of 1980 (L.A.O.P.No.166 of 1980) on the file of the Ist Additional Subordinate Judge, Coimbatore.

For Appellants : Mr.E.Sampath Kumar for
M/s.Haja Mohideen

For Respondents : Mr.V.Ravi,
Special Govt. Pleader

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JUDGMENT

These appeals arises against the Award dated 25.1.1990 in L.A.O.P.No.166 of 1980 on the file of the Additional Sub Court, Coimbatore in and by which, the learned Sub Judge fixed the compensation amount at Rs.5500/- per acre and Rs.8000/- per acre in respect of dry lands and wet lands respectively.

2. The brief facts of the case are as follows:

The land under acquisition was acquired by the Government for formation of Sewerage drainage project. 4(1) Notification under the Land Acquisition Act was issued on 16.3.1978. Land acquisition officer passed an Award in Award No.17 of 1979 dated 14.9.1979, fixing the land value of at Rs.3,417/- per acre for dry lands and Rs.5,686/- per acre for garden lands. Against the order of the land acquisition officer, the claimant requested the Collector to refer the matter to the land acquisition Tribunal to fix the fair and reasonable compensation for the land under acquisition. The Collector also referred the matter for adjudication under Section 18 (1) of the Land Acquisition Act. The trial Court, after given due consideration with regard to the data sales (Ex.B3) passed an Award fixing compensation of Rs.5,500/- per acre and Rs.8,000/- per acre in respect of dry lands and wet lands respectively. Aggrieved by the award of the trial Court, the claimant filed the present appeal.

3. Heard Mr.E.Sampath Kumar, learned counsel appearing for the Appellants and Mr.V.Ravi, learned Special Government Pleader appearing for the respondent.

4. Upon hearing the rival claim, the only point for consideration is as to whether the Award of the trial Court in fixing the compensation on the basis of the data sale is fair and reasonable?

5. Point:

The learned counsel for the claimant relied on the sale deed which are marked as Exs.A4 and A5 (B2) and submitted that the land referred therein is proximate to the land under acquisition and that the trial Court, erroneously not taken into account the data sale referable to Exs.A4 & A5 with a view to fix low value, for the land on the basis of Exs.B4 & B5 and as such, he requested the Court to fix the land value at Rs.15,000/- per acre on the basis of Exs.A4 & A5 (B2)

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6. The learned counsel for the appellant further contended that the entire land is of the the same nature, as there is no difference in tharam amongst the land and therefore, fixing the fair and reasonable compensation for the entire land in one mode would meet the ends of justice.

7. Whereas, the learned Government Advocate confronted the contention of the learned counsel for the appellants and submitted that the lands referable to Exs.B4 and B5 are proximate to the land under acquisition and tharam of both dry and wet lands are not one and the same and as such, the land value fixed by the trial Court for dry land and wet lands in two modes are in order.

8. I have gone through the data sale deeds and the land referable to Exs.A4, A5 (B2), B4 and B5

9. In ground reality, the lands which have got source of water for cultivation, have been classified as garden land and the land value fixed on that basis. The lands which have no source of water for cultivation have been classified as dry land and hence lessor land value has been fixed. In such circumstances, the contention of the learned counsel for the appellant that there is no difference in "tharam" amongst the lands under acquisition is bereft of any merit.

10. Ex.B2 (A5) (S.No.552) is with reference to sale deed dated 19.2.1976. Ex.B3 is relating to the data sale. Ex.B4 (S.No.514) is with regard to sale deed dated 06.12.1975. Ex.B5 (S.No.210) is with regard to sale deed dated 15.4.1976. Ex.A4 is with regard to sale deed dated 20.11.1974.(S.No.300/1).

11. For fixing the land value, the trial Court has taken into consideration of the sale deed referable to Exs.B.4 and B.5 and fixed the land value of dry land and wet land at Rs.5,500/- and Rs.8,000/- respectively. Both the lands, as per the survey map, proximate to the railway line. In fact, they are proximate to the land under acquisition. Whereas, the sale deed referable Exs.A4 and A5 are far away from the railway track. The land near railway track would be costlier when compared to other lands far away from the railway track.

12. Moreover, the data lands taken for consideration to fix the market value, have access to road also. Bearing in mind the above facts, the trial Court fixed the market value for the land under acquisition. I do not find any error in the finding of the trial Court in fixing the market value of the land on the basis of the data land referred above.

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13. The date land relied on by the trial Court is with reference to the sale deed of the year 1975-1976. 4(1) notification was issued in the year 1978. Award passed in the year 1979. There is an appreciation in the land value every year. In a given case, the trial Court fixed the land value at Rs.5,500/- and Rs.8,000/- for dry land and wet land respectively, on the basis of the sale deed of the year 1975 - 1976. So, there will be an appreciation in the land value atleast to an extent of 10% every year. So, for three years there will be an appreciation of 30% in the land value.

14. Taking into consideration of the facts on hand, I am of the considered view that awarding 30% appreciation on the land value fixed by the trial Court would meet the ends of justice. In such circumstances, the land value of the dry land and wet land works out as follows:

For Dry Land:

For I year : 5500 x 10/100 = 550
5500 + 550 = 6050

For II Year : 6050 x 10/100= 605
6050 + 605 = 6655

For III Year : 6655 x 10/100 = 665
6655 + 665 = 7320

For Wet land:

For I year : 8000 x 10/100 = 800
8000 + 800 = 8800

For II year : 8800 x 10/100 = 880
8800 + 880 = 9680

For III year : 9680 x 10/100= 968
9680 + 968 = 10,648

So, I am inclined to fix the value of the land under acquisition at Rs. 7320/- and Rs.10,648/- for dry land & wet land respectively.

15. There was no submission by the learned counsel for the petitioner with regard to fixing the value of well, houses etc., by the trial Court. In fact, the learned counsel for the petitioner restricted his argument only with reference to the finding of the trial Court in fixing the market value of the land under acquisition with regard to dry land and wet land. So, I am of the view that there is no need to deal with the finding of the trial Court with regard to other aspects.

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16. The rate of interest etc.,fixed by the trial Court in arriving at a lumpsum amount was not questioned by the parties to the proceedings and therefore, the finding of the trial Court in this regard is sustained.

17. In the result, the above appeals are allowed in part. Parties have to bear their respective costs.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The First Additional Subordinate Judge
Coimbatore.(With Records if any)

2. The Record Keeper,
VR Section, High Court, Madras.

+ 2 ccs to the Government Pleader, SR No.54752, 54748

MDR(CO)
SR/4.1.2007

Judgment
in A.S.No.957 of 1993
and
A.S.No.957 of 1996

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